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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,047	06/24/2003	Carl Pomerantz	POMERANTZ	8144
7590 05/18/2004				
CARL POMERANTZ 567 LAKESHORE BEACONSFIELD, H9W 4K3 CANADA		EXAMINER HOGE, GARY CHAPMAN		
		ART UNIT 3611		PAPER NUMBER

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/602,047

Applicant(s)

POMERANTZ, CARL

Examiner

Gary C Hoge

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/24/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 8-13 are objected to because of the following informalities: The claims have been misnumbered (a claim 7 has been omitted). Therefore, misnumbered claims 8-13 have been renumbered 7-12, respectively.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 8 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no description of an embodiment in which a smooth transition edge is provided between the upper edge region and the side edge region, and in which there is an obtuse intersection between the side edge region and the bottom edge region (claim 8) and in which a smooth transition edge is provided between the side edge region and the bottom edge region of an attachment means panel (claim 12).

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sy.

Sy discloses a label holding strip comprising a continuous section of plastic material 55 including front and back panels joined integrally along a bottom edge region of the strip and forming an upwardly opening pocket for the removable reception of labels (see Fig. 9), and at least one side edge region at an extreme longitudinal end of the front panel with interconnection of the side edge region and the bottom edge region being substantially blended and smooth whereby a substantially snag-free transitional edge is provided between the bottom edge region and the side edge region (compare Figs. 8 and 9).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sy in view of Hawkins.

Sy discloses the invention substantially as claimed, as set forth above. However, the side edge region disclosed by Sy is generally perpendicular to the bottom edge. Hawkins teaches that it was known in the art to provide a sign holder in which the side edges form an obtuse intersection with the bottom edge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the side edge region disclosed by Sy intersect the bottom edge at an obtuse angle, as taught by Hawkins, for aesthetic reasons.

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8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barcom in view of Brinkman et al.

See Fig. 1. Barcom discloses a label holding strip comprising a continuous section of material including front and back panels joined integrally along a bottom edge region of the strip and forming an upwardly opening pocket for the removable reception of labels, an upper front panel edge region parallel to the bottom edge region at least one side edge region at one extreme longitudinal end of the front panel with interconnection of the side edge region and the upper edge region being substantially blended and smooth.. However, it is not known what material Barcom contemplates for the construction of the holding strip. Therefore one of ordinary skill in the art must choose a material from those that were already known in the art at the time of Applicant's invention to be suitable for the intended use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plastic, because Brinkman et al. discloses that plastic was one of those materials which were known in the art to be suitable for the construction of a label holding strip from which the person of ordinary skill must choose as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

9. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barcom in view of Brinkman et al., as applied to claim 5, above, and further in view of Sy.

Barcom, as modified, discloses the invention substantially as claimed, as set forth above. However, the blended edge disclosed by Barcom is in the form of an angle, rather than an arc (claim 6), which is a curved edge (claim 7). Sy teaches that it was known in the art to make a blended edge having a curved edge. It would have been obvious to one having ordinary skill in

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the art at the time the invention was made to make the blended edge on the holding strip disclosed by Barcom with a curved edge, as taught by Sy, as an obvious matter of choice in design.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barcom in view of Brinkman et al., as applied to claim 5, above, and further in view of Hawkins.

Barcom, as modified, discloses the invention substantially as claimed, as set forth above. However, the side edge region disclosed by Barcom is generally perpendicular to the bottom edge. Hawkins teaches that it was known in the art to provide a sign holder in which the side edges form an obtuse intersection with the bottom edge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the side edge region disclosed by Barcom intersect the bottom edge at an obtuse angle, as taught by Hawkins, for aesthetic reasons.

11. Claims 9-11 are is rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick in view of Brinkman et al.

See Fig. 1. McCormick discloses a label holding strip comprising a continuously extruded section of material including front and back panels joined integrally along a bottom edge region of the strip and forming an upwardly opening pocket for the removable reception of labels, and an attachment means panel joined integrally along the back panel a longitudinal distal edge region on the attachment panel and at least one side edge region at one extreme longitudinal end of the attachment panel with interconnection of the side edge region and the longitudinal distal edge region being substantially blended and smooth (see Fig. 4). However, it is not known what material McCormick contemplates for the construction of the holding strip. Therefore one

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of ordinary skill in the art must choose a material from those that were already known in the art at the time of Applicant's invention to be suitable for the intended use. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plastic, because Brinkman et al. discloses that plastic was one of those materials which were known in the art to be suitable for the construction of a label holding strip from which the person of ordinary skill must choose as a matter of choice in design, based on such factors as cost and availability of the materials to the designer.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCormick in view of Brinkman et al., as applied to claim 9, above, and further in view of Hawkins.

McCormick, as modified, discloses the invention substantially as claimed, as set forth above. However, the side edge region disclosed by McCormick is generally perpendicular to the bottom edge. Hawkins teaches that it was known in the art to provide a sign holder in which the side edges form an obtuse intersection with the bottom edge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the side edge region disclosed by McCormick intersect the bottom edge at an obtuse angle, as taught by Hawkins, for aesthetic reasons.

### *Conclusion*

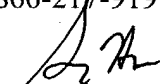
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C Hoge whose telephone number is (703) 308-3422. The examiner can normally be reached on 5-4-9.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch